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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/403,431	02/23/2000	MOTOSHI TAMURA	9683/54	7267

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EXAMINER

LE, DANH C

ART UNIT PAPER NUMBER

2617

DATE MAILED: 07/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/403,431	Applicant(s) TAMURA ET AL.	
	Examiner DANH C. LE	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 42-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 42-44, 46-53 is/are rejected.
- 7) ☐ Claim(s) 45 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 47-49 are rejected under 35 U.S.C. 102(b) as being anticipated by Vercauteren (US 5,504,935).

As to claim 47, Vercauteren teaches a mobile station (figures 1, 2 and their descriptions), comprising:

a receiver that is adapted to receive a message from a network;

an access link controller that is adapted to establish a plurality of branches between the network and the mobile station when no access link is established between the network and the mobile station and when the receiver receives message the message including a request or establishing the plurality of branches; and

a communication controller that is adapted to commence communication using the plurality of branches with the diversity of handover.

As to claim 48, Vercauteren teaches a mobile station according to claim 47, wherein if the request includes an instruction to establish the plurality of branches between the mobile station and a single base station, the mobile station establishes the requested branches between the mobile station and the single base station, thereby

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commencing communication using the plurality of branches (figures 1, 2 and their descriptions).

As to claim 49, Vercauteren teaches a mobile station according to claim 47, wherein if the request includes a request to establish the plurality of branches between the mobile station and a plurality of base stations, the mobile station establishes the requested branches between the mobile station and the base stations, thereby commencing communication using the plurality of branches (figures 1, 2 and their descriptions).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 42-44, 46, 50-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vercauteren (US 5,504,935).

As to claim 42, Vercauteren teaches a method for controlling access links between a mobile station and a network (figures 1, 2 and their descriptions), comprising:

transmitting, by the mobile station a notification to the network the notification, including information that the mobile station is capable of performing diversity handover

establishing a plurality of branches between the network and the mobile station, the establishment being triggered by the call, the plurality of branches being determined on the basis of the notification; and

commencing communication between the mobile station and the network, the communication using diversity handover with the plurality of branches.

Vercauteren fails to teach the detecting, by the network, a call attempt to or from the mobile station; Wadin teaches the detecting, by the network, a call attempt to or from the mobile station (figure 2 and col. 3, lines 56-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Wadin into the system of Vercauteren in order to interchange information between base station and network controller.

As to claim 43, Vercauteren teaches a method according to claim 42, wherein the plurality of branches are formed between the network and the mobile station via a single base station, thereby enabling the mobile station to commence communication using the plurality of branches (figures 1, 2 and their descriptions).

As to claim 44, Vercauteren teaches a method according to claim 42, wherein the plurality of branches are formed between the network and the mobile station via a plurality of base stations, thereby enabling the mobile station to commence communication using the plurality of branches (figures 1, 2 and their descriptions).

As to claim 46, Vercauteren teaches a method according to claim 42, further comprising: transmitting by the network a message to the mobile station, the message including a request to establish the plurality of branches, and commencing by the network the diversity handover for communicating with the mobile station (figures 1, 2 and their descriptions)

As to claim 50, Vercauteren teaches a base station controller for controlling a base station in a network (figures 1, 2 and their descriptions), comprising:

a receiver that is adapted to receive a notification from a mobile station, the notification including information indicating that the mobile station is capable of performing diversity handover;

an access link controller that is adapted to establish a plurality of branches between the network and the mobile station and when the receiver receives the notification, the plurality of branches being used for diversity handover: and

a communication controller that is adapted to control the base station to perform communication with the mobile station, the communication using diversity handover.

Vercauteren fails to teach the detector that is adapted to detect a call attempt to or from the mobile station. Wadin teaches detector that is adapted to detect a call attempt to or from the mobile station (figure 2, 218 and col. 3, lines 56-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Wadin into the system of Vercauteren in order to interchange information between base station and network controller.

As to claim 51, the combination of Vercauteren and Wadin teaches a base station controller according to claim 50, further comprising:

a transmitter that is adapted to transmit a message to both of the base station and the mobile station when the detector detects a call attempt to or from the mobile station (Wadin, figure 2) , and when the receiver receives the notification, the message including a request for establishing the plurality of branches, wherein the

communication controller performs communication using the intra-cell diversity handover

As to claim 51, the combination of Vercauteren and Wadin teaches a base station controller according to claim 50, wherein: the network includes a plurality of base stations, the base station controller further comprises a transmitter that is adapted to transmit a message to the plurality of base stations and the mobile station when the detector detects a call attempt to or from the mobile station (Wadin, figure 2) and when the receiver receives the notification, the message including a request for establishing the plurality of branches, and

the communication controller performs the communication using inter-cell diversity handover

As to claim 53, Vercauteren teaches a base station for communicating with a mobile station under the control of a base station controller (figures 1, 2 and their descriptions), comprising:

an access link control that is adapted to establish a plurality of branches between the base station and the mobile station, on the basis of the instruction received by the receiver; and

adapted to commence communication with the mobile station, the communication using intra-cell diversity handover, the inter-cell diversity handover using the plurality of branches

Vercauteren fails to teach a receiver and communication controller that is adapted to receive an instruction from the base station controller, the instruction being

trigger by a call attempt to or from the mobile station. Wadin teaches a receiver and communication controller that is adapted to receive an instruction from the base station controller, the instruction being trigger by a call attempt to or from the mobile station (figure 2 and col. 3, lines 56-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Wadin into the system of Vercauteren in order to interchange information between base station and network controller.

Response to Arguments

Applicant's arguments with respect to claims 42-53 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

Claim 45 is objected to as being dependent upon a rejected base claim in the previous Office Action, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANH C. LE whose telephone number is 571-272-7868. The examiner can normally be reached on 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, WILLIAM TROST can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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A handwritten signature in black ink, appearing to read "Danh", is written over a horizontal line.

June 28, 2006.

DANH CONG LE
PRIMARY EXAMINER